

**CLARKE COUNTY
PLANNING COMMISSION
Minutes
2009 January 9 – 9:00 a.m.
Main Meeting Room**

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, January 9.

CALL TO ORDER

Mr. Johnston, clerk to the Commission called the meeting to order at 9:04 a.m.

ELECTION OF CHAIR AND VICE CHAIR

Mr. Johnston asked for nominations of Chair to the Commission. Commissioner McKay nominated Commissioner Ohrstrom for the position of Chair of the Planning Commission for 2009.

The Commission voted unanimously to elect Commissioner Ohrstrom as Chair to the Planning Commission for 2009.

Yes: Batterton (moved), Caldwell, McKay, McKelvy, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

Commissioner McKay thanked the Planning Commission for the opportunity to serve as Chair of the Commission since October 2003.

Mr. Johnston asked for nominations of Vice Chair to the Commission. Chair Ohrstrom nominated Commissioner Caldwell for the position of Vice Chair to the Planning Commission for 2009.

The Commission voted unanimously to elect Commissioner Caldwell as Vice Chair to the Planning Commission for 2009.

Yes: Batterton (moved), Caldwell, McKay, McKelvy, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

ATTENDANCE

George Ohrstrom; Chair; Vice Chair, Anne Caldwell; Barbara Batterton, Beverly McKay, Pat McKelvy, Cliff Nelson, Kathy Smart, Chip Steinmetz, and Bob Wade.

ABSENT

Jay Arnold and A.R. Dunning, Jr.

STAFF

Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator; Alison Teetor, Natural Resource Planner; Nancy Olin, Code Enforcement; and Debbie Bean, Recording Secretary.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda.

Yes: Batterton, Caldwell (moved), McKay, McKelvy, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

COMMITTEE ASSIGNMENTS FOR 2009

The Commission voted unanimously to approve the committee assignments for 2009 as presented.

Yes: Batterton (seconded), Caldwell, McKay, McKelvy (moved), Nelson, Ohrstrom, Smart, Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

2009 MEETING SCHEDULE

The Commission voted unanimously to change the start time of the briefing meetings to 2:00 p.m. The Commission voted unanimously to approve the rest of the meeting schedule for 2009 as presented.

Yes: Batterton (seconded), Caldwell, McKay, McKelvy, Nelson, Ohrstrom, Smart, Steinmetz, and Wade (moved)

No: No one

Absent: Arnold and Dunning

APPROVAL OF MINUTES

The minutes of 2008 November 7 were unanimously approved.

Yes: Batterton, Caldwell, McKay, McKelvy (seconded), Nelson, Ohrstrom, Smart (moved), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

The Commission voted unanimously to approve the briefing minutes of 2008 December 2.

Yes: Batterton, Caldwell (moved), McKay, McKelvy, Nelson, Ohrstrom, Smart, Steinmetz, and Wade (seconded)

No: No one

Absent: Arnold and Dunning

The Commission voted unanimously to postpone approving the regular minutes of 2008 December 5 until the next regular meeting of the Commission on February 6 in order for a motion to be corrected.

Yes: Batterton, Caldwell, McKay, McKelvy (moved), Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

REPORT – Long Term Plan for Clermont Farm – Robert Stieg, Executive Director

Mr. Steig was unable to attend the meeting.

REPORT – New High School – Janet Alger, School Board Chair and Michael Murphy, School Superintendent

Ms. Alger and Dr. Murphy were unable to attend the meeting.

SPECIAL USE PERMIT – CONTINUED PUBLIC HEARING

Georgetown University (Agent: Ron Mislowsky, P.E.) requests approval of a Special Use for an “Institutional Use” and Site Plan for the Calcagnini Contemplative Center, a student/staff educational and religious facility, located at 18715 Blue Ridge Mountain Road, Tax Map #26-((A))-112 & 113, Battletown Magisterial District, zoned Forestal Open-Space Conservation (FOC). SUP-08-01

Mr. Russell explained this request. He stated that Alan Brangman, Georgetown University Architect and Ron Mislowsky, engineer with PHR&A, representing Georgetown University were present to answer questions. Mr. Russell stated that he had handed out materials explaining the conditions. He stated there are some small changes.

Mr. Brangman spoke about the conditions that the Commission expressed concerns about at the last meeting. He said they are still in discussions with the Virginia Land Trust about putting the property in Conservation Easement. He gave a brief discussion regarding the planned schedule of events that were submitted to the Planning Commission.

Chair Ohrstrom stated that Mr. Brangman did a very thorough job on the materials he presented to the Planning Commission. Commissioner Wade commended him on the amount of detail he put into the charts he prepared.

Commissioner Steinmetz noted the conditions stated by the applicant proposed a limit of annual property tax increases of 3%. He said that there should not be such special consideration for Georgetown, as this would be setting a precedent.

Chair Ohrstrom feels the document is well written but would like to see a time limit set for either placing the property in conservation easement or termination of dwelling unit rights per zoning ordinance 3-D-3.

After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Greg Glassman, resident in the area, had comments regarding the number of trips this proposal will generate. He questioned if someone will be monitoring the number of trips being made.

Mr. Johnston stated that the number of trips generated by the chart Mr. Brangman prepared would not be directly monitored. He said that there would be limits on the frequency and duration of events. He said he expected neighbors observing the frequency of trips would monitor these limits. He stated planning staff relies on neighbors to contact staff when there are problems, as there is not enough staff to monitor every property.

Commissioner Steinmetz suggested that the applicant provide an annual schedule of events to County staff.

Richard Marks, area resident, stated that Mr. Whitehouse, an area resident, could not attend the meeting today. Mr. Marks stated that Mr. Whitehouse is concerned with the County boundary marker and how many people live on the mountain. Mr. Marks stated that he has concerns regarding the charts that were provided to the Planning Commission. He said we need to follow the charts closer and asked if the numbers are exactly correct. He said he has concerns with the traffic impact and the tax issue. He stated that this special use permit should be denied.

Kenneth and Alice Lesson, area residents, said they think this proposal would be beneficial for the mountain.

Carol Haynes, adjacent property owner, said she feels the numbers are not exactly correct that have been

presented to the Planning Commission. She stated her residence is very close to the property. She does not like the idea of this proposal coming to the mountain. She stated the entire complex is squeezed onto one ten acre plot. She stated that her property is in conservation easement. She said this is not what the people on the mountain are contemplating.

Frank Cefalu, area resident, stated he can not see how this proposal will bother anyone. He said he thinks this facility would be an asset to the mountain.

Linda Marks, area resident, presented a petition signed by neighbors against this proposal to the Planning Commission. She stated that a lot of people did not get to sign the petition due to the holidays. She said that there are thirty signatures on the petition.

Mr. Cefalu stated that no one canvassed him to sign a petition; he stated he is very familiar with the existing house on the property.

Judy Whitehouse, resident in the area, stated she did not contact Mr. Cefalu when seeking signatures for the petition as she was aware that he is in favor of this proposal. She stated she feels the existing house should remain on the property.

John Bieschke, Chair of the Clarke County Historic Preservation Commission, was present and gave a brief discussion regarding the historic structure on the property. He stated the structure is eligible for federal and state tax credits. He said that he believes this structure would be an asset to this proposal. He said the building is a very sound building, which can be rehabilitated.

Mr. Brangman stated that they have reviewed keeping the house. He said first and foremost the concern is economics. He said in order to get the house to be usable for their needs; it would cost approximately three quarters of a million dollars to renovate it. He said the house is three stories and that only one floor could be used because they want it accessible to everyone. He stated that when the proposal was first presented they had planned on keeping the existing house, but since that time they have changed their minds on several ideas to meet their needs.

Commissioner Steinmetz asked what it would cost the community to demolish this house. Mr. Bieschke stated it depends on whom you ask.

John Friant, resident of Clarke County, stated that he does not own property on the mountain, but he believes that many residents would think an educational institution would be beneficial to the mountain.

Madalene Martz, resident in the area, stated she feels very strongly about the existing house remaining on the property. She said that the Blue Ridge Mountain Road is a scenic by-way and that the applicant is requesting a 30-foot turn lane for the proposal. She stated she feels this is not a part of a scenic by-way.

There being no further public comments, Chair Ohrstrom called for a motion,

Mr. Russell stated that some of the issues brought up today should be addressed by the County's land use attorney, Robert Mitchell.

The Commission voted unanimously to postpone action and continue the public hearing until the next regular meeting of the Commission on February 6.

Yes: Batterton, Caldwell, McKay (moved), McKelvy, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

SPECIAL USE PERMIT – SET PUBLIC HEARING

Shenandoah Area Agency on Aging and Clarke County Parks and Recreation (John C. Lewis, P.E., Agent) requests approval of an amendment to the Special Use and Site Plan for the facilities at Chet Hobert Park to add a senior center and parks and recreation offices to the Clarke County Recreation Center located on Al Smith Circle, Tax Map #13-((A))-62, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation. SUP-09-01

Mr. Russell explained this request. He said that the applicant is requesting the approval of two additions to the existing senior center, an independent senior center facility and parks office space. He said the senior center and the office addition would be constructed of brick and split face block, matching the existing building materials of the recreation center. He said that John Lewis, with Painter-Lewis, P.L.C., the agent for the applicant was present to answer questions.

Keith Dalton, Town Manager for the Town of Berryville, was present and stated that the Town has not been sitting on the plans. He provided written comments on the proposal.

After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this proposal for the next regular meeting of the Planning Commission on February 6.

Yes: Batterton, Caldwell, McKay (moved), McKelvy, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

DISCUSSION – Town of Berryville representatives

The Town of Berryville requests approval of an amendment to the Special Use and Site Plan for the Town Wastewater Treatment Plant so as to expand and upgrade the facility located at 362 Parshall Road, Tax Map Parcel 14-A-68, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation.

Mr. Johnston stated that this item is proposed for setting public hearing in February for the Commission's March meeting. He stated that the engineers for the Town would be presenting this item for preliminary discussion. A brief report was presented by Dean Westman, with Whitman, Requardt & Associations, LLP, representing the Town of Berryville, for the expansion and upgrade to the wastewater treatment plant. He said the proposed improvements were a requirement from the Department of Environmental Quality for the protection of the Chesapeake Bay. He stated that although there are karst features on the property, there are no sinkholes on the property. He stated that the Department of Environmental Quality wants this project to be completed in 2009.

David Tyrrell, Director of Utilities for the Town of Berryville, was present and answered questions from the Commission.

Keith Dalton, Town Manager for the Town of Berryville, stated the Town is prepared to move forward with this project. He stated they would be ready for public hearing in February.

The Commission discussed changing the date of the public hearing to February 6. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing for the next regular meeting of the Commission on February 6.

Yes: Batterton, Caldwell (seconded), McKay (moved), McKelvy, Nelson, Ohrstrom, Smart, Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

TEXT AMENDMENT – PUBLIC HEARING

**The Clarke County Planning Commission recommends the amendment of:
the County Zoning Ordinance:**

Section 4-K-4-b-5, Change to Another Nonconforming Use, so as to replace the Board of Zoning Appeals with the Board of Supervisors as the entity that decides whether a nonconforming use can be replaced with another nonconforming use;

Section 4-K-6, Uses Eligible for Special Use Permits Not Nonconforming Uses, so as to delete this section;

Section 5-B, Special Use Permit Procedures, so as to state: “A property shall be deemed to have been granted a special use permit for a use if, at the time of the adoption of the ordinance provision permitting that use in the zoning district as a special use, the use was either a permitted use in the district or a legal nonconforming use.”

Section 5-D, Special Use Permit Amendment, so as to state: “A property which has been granted a special use permit for a use, or a property which is deemed to have been granted a special use permit for a use pursuant to section 5-B-5, shall be required to apply for an amended special use permit in the event the use is enlarged or expanded;” and “The procedures for applying for an amended special use permit shall be the same procedures as for special use permit applications as set forth in Section 5-B;”

Section 6-E, Site Plan Procedures, so as to state in part: “A Site Plan shall become null and void if it is not submitted, in a form complying with all conditions established by the Planning Commission, to the Planning Commission Chair and Zoning Administrator for signature within six months from the date of approval by the Planning Commission...;” and to state in part that “An approved final site plan shall be valid for not more than five years, if a final certificate of occupancy has not been issued for the structures shown on the Site Plan...;”

the County Subdivision Ordinance:

Section 1-C-1, Recordation of Plats, so as to add, to the section that now says: “A Record Plat shall become null and void if it is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the Planning Commission.”, provisions that allows the Planning Commission to grant an additional six months to record a plat and that allows one year (or more if approved by the Planning Commission) for plat recordation when construction of proposed public facilities has commenced or has been bonded. TA-08-09

Mr. Johnston explained this request. He said that these are relatively minor technical amendments. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to recommend the above text amendments to the Board of Supervisors to set public hearing.

Yes: Batterton, Caldwell (moved), McKay, McKelvy (seconded), Nelson, Ohrstrom, Smart, Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

REPORT – Casey Tree Farm at Springsbury Farm – Ms. Batterton, Ms. Caldwell, and Ms. Smart
Ms. Caldwell gave a brief discussion regarding their visit to the Casey Tree Farm. She stated that the Casey Tree Farm members are uncertain as to where they want to go with the site and the buildings. Ms. Batterton and Ms. Smart stated that the members said they would like to do something agricultural. Ms. Smart stated they are stabilizing the structures. Chair Ohrstrom asked the Policy Committee to explore this item.

Board of Supervisors – **Pete Dunning**
Mr. Johnston stated that the 7-11 rezoning was approved. He said the code amendment regarding erosion and sediment control was approved.

Sanitary Authority – **Pete Dunning**
Nothing to report.

Board of Septic & Well Appeals – **Pete Dunning**
Nothing to report.

Board of Zoning Appeals – **Anne Caldwell**
Nothing to report.

Historic Preservation Commission – **Cliff Nelson**
Commissioner Nelson stated that the next meeting is scheduled for January 27.

Conservation Easement Authority – **Pat McKelvy**
Commissioner McKelvy stated the grant for \$49,000 was approved.

Natural Resource Activities – **Alison Teetor**
Ms. Teetor stated that there is a potential legislation being proposed by the Home Builders Association of Virginia in regard to alternative septic systems. She stated that a Resolution has been prepared stating the Planning Commission opposes the legislation which would not allow a locality to prohibit the use of “alternative” or non-convention” on-site wastewater treatment systems that have been approved for use by the Department of Health. Chair Ohrstrom read the resolution to the Planning Commission.

The Commission voted unanimously in favor of said resolution with modifications
Yes: Batterton, Caldwell (moved), McKay, McKelvy (seconded), Nelson, Ohrstrom, Smart, Steinmetz, and Wade

No: No one

Absent: Arnold and Dunning

Chair Ohrstrom stated that this resolution would be forwarded to Delegate Joe May, Senator Jill Vogel and the Board of Supervisors.

Enforcement Officer – **Nancy Olin**
Ms. Olin’s progress reports for 2008 December 1 thru 2009 January 5 were reviewed. Commissioner Wade asked Ms. Olin to visit the Saw Mill Road area and investigate the number of people living in travel trailers in that area.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:26 a.m. until the next regular meeting on February 6.

George L. Ohrstrom, II, Chair, Chair

Charles Johnston, Clerk to the Commission

Minutes prepared by
Debra L. Bean, Recording Secretary